



Colloquium
Possible future work on PPPs
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Possible future work in PPPs

Selection procedures

Legislative Guide, Chapter III; Recommendations 18-39

MLPs 5-27

- Detailed provisions in PFIPs Instruments
- Procurement steps well-understood

- Traditional procurement focus on simpler projects
- More modern procurement laws have methods suitable for complex projects
 - Require tailoring to the PPPs context
 - More detail on planning and construction/operational phases



Possible future work in PPPs

Selection procedures

Legislative Guide, Chapter III; Recommendations

18-39 MLPs 5-27

- Other issues
 - Disclosure of terms of project agreement
 - procurement contract terms disclosed ex ante
 - Negotiations after selection of project company
 - Changes to project agreement
 - New procurement?
 - Transparency and accountability



Possible future work in PPPs



Domestic preferences

Legislative Guide, Chapter III

- Guide has outline guidance
- Common and sensitive issue in procurement
- Flexible approach in UNCITRAL Model Law on Public Procurement
 - More complex in PPPs environment
 - Quantifying preferences?
 - Public service obligations?
 - Sub-contracting?



Possible future work in PPPs

Review and challenge mechanisms

Legislative Guide, Chapter III; Rec. 39; MLP 27

- PFIPs Instruments have outline recommendations and guidance
- Pre-award disputes handled in detail in UNCITRAL Model Law on Public Procurement
 - Flexible approach designed to be adapted to local circumstances
- Model Law follows core principles in PFIPs Instruments
- Implements UN Convention against Corruption
- Provides remedies to aggrieved bidders
- Competence of public procurement review bodies can be extended to PPP disputes



Possible future work in PPPs

Unsolicited proposals

Legislative Guide, Chapter III; Recommendations 30-35; MLPs 20-23

- Controversial issue in most countries
- Agreement that approach of current Legislative Guide appropriate
 - Genuinely innovative proposals can be taken up
- Other proposals in the public interest are subject to competitive selection procedures
- “In the public interest”?
 - Unidentified infrastructure need
 - Infrastructure plans, affordability



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Unsolicited proposals

Legislative Guide, Chapter III; Recommendations 30-35; MLPs 20-23



- Legislative Guide allows unidentified infrastructure need to be pursued
 - Possibility of modification of selection procedure
 - Compensating original proponent, Swiss challenge, etc
- Negotiations with a single bidder
 - Intellectual property issues
- Flexibility for unsolicited proposals can be abused to avoid procurement restrictions

